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**DEPARTMENT OF INTERIOR**

**Fish and Wildlife Service**

**[FWS–R8–ES–2015–N068]**

**[81420–1113–0000–F3]**

**Extension of Pacific Gas and Electric Safe Harbor Agreement for Interior Dune Species  
Located in Antioch Dunes in Contra Costa County, CA**

**AGENCY:** Fish and Wildlife Service, Interior.

**ACTION:** Notice of availability; receipt of application.

**SUMMARY:** This notice advises the public that Pacific Gas and Electric (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 5-year extension of their existing Enhancement of Survival permit under the Endangered Species Act of 1973, as amended (Act). The Safe Harbor Agreement (Agreement) is between the Applicant and the Service for the

federally endangered Lange's metalmark butterfly, Antioch Dunes evening primrose, and Contra Costa wallflower. No changes are proposed to the Agreement other than extending the Enhancement of Survival Permit and associated Agreement for an additional 5 years.

**DATES:** To ensure consideration, please send your written comments by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

**ADDRESSES:** Send comments to Mr. Rick Kuyper, via U.S. mail at U.S. Fish and Wildlife Service, Sacramento Fish and Wildlife Office, 2800 Cottage Way, W-2605, Sacramento, CA 95825, or via facsimile to (916) 414-6713.

**FOR FURTHER INFORMATION CONTACT:** Mr. Rick Kuyper, Sacramento Fish and Wildlife Office (see **ADDRESSES**); telephone: (916) 414-6600.

**SUPPLEMENTARY INFORMATION:** This notice advises the public that Pacific Gas and Electric (Applicant) has applied to the U.S. Fish and Wildlife Service (Service) for a 5-year extension of their existing Enhancement of Survival permit under the Endangered Species Act of 1973, as amended (Act). The Safe Harbor Agreement (Agreement) is between the Applicant and the Service for the federally endangered Lange's metalmark butterfly (*Apodemia mormo langei*), Antioch Dunes evening primrose (*Oenothera deltoides* ssp. *howellii*), and Contra Costa wallflower (*Erysimum capitatum* var. *angustatum*) (collectively referred to as the Covered Species). No changes are proposed to the Agreement other than extending the Enhancement of Survival Permit and associated Agreement for an additional 5 years.

## **Availability of Documents**

You may obtain a copy of the Agreement by contacting the individual named above.

You may also make an appointment to view the document at the above address during normal business hours.

## **Background**

Under a Safe Harbor Agreement, participating landowners voluntarily undertake management activities on their property to enhance, restore, or maintain habitat benefiting species listed under the Act (16 U.S.C. 1531 *et seq.*). Safe Harbor Agreements, and the subsequent enhancement of survival permits that are issued pursuant to section 10(a)(1)(A) of the Act, encourage private and other non-Federal property owners to implement conservation efforts for listed species by assuring property owners that they will not be subjected to increased property use restrictions as a result of their efforts to attract listed species to their property, or to increase the numbers or distribution of listed species already on their property. Application requirements and issuance criteria for enhancement of survival permits through Safe Harbor Agreements are found in 50 CFR 17.22(c) and 17.32(c). These permits allow any necessary future incidental take of covered species above the mutually agreed-upon baseline conditions for those species in accordance with the terms and conditions of the permits and accompanying agreements.

## **Existing Agreement**

### ***Description***

The Agreement covers two 6-acre parcels (Enrolled Property) that are located along the south shore of the San Joaquin River in Contra Costa County, California. The two parcels are located adjacent to, and on either side of, the 14-acre Sardis Unit of the Antioch Dunes National Wildlife Refuge (Refuge). Two transmission towers are located on the Enrolled Property – one 115 kV tower on the west parcel and one 230 kV tower on the east parcel. The Applicant relies on graveled and dirt access roads to reach all of its facilities on the Enrolled Property. Each tower has an established work area that is utilized for maintenance and operation activities.

### ***Purpose***

The purpose of this Agreement is for the Service and the Applicant to collaborate and implement conservation measures for the Covered Species. The Applicant has restored and maintained suitable habitat within the Enrolled Property within the Antioch Dunes system, as specified in the Agreement. Restoration actions have primarily involved controlling invasive plant species. The Applicant has allowed the Service to conduct native plant restoration activities as specified in the Agreement. The restoration activities have resulted in an increase in host plants for the Lange's metalmark butterfly throughout the Enrolled Property, thus resulting in a net conservation benefit for this species. Additionally, the restoration activities have decreased threats to the Contra Costa wallflower and the Antioch Dunes evening primrose by reducing the amount of invasive, nonnative plants that outcompete the federally endangered plants. The Agreement also contains a monitoring component that provides information on the success of weed eradication and assists the Refuge in early detection of new invasive plant species. Results of these monitoring efforts are provided to the Service by the Applicant in annual reports.

### ***Proposed Extension of Existing Agreement***

No changes are proposed to the Agreement other than extending the Enhancement of Survival Permit and associated Agreement for an additional 5 years. The proposed extension of the Enhancement of Survival permit and Agreement would authorize the incidental taking of the Covered Species associated with the restoration, enhancement, and maintenance of suitable habitat for the Covered Species; routine activities associated with maintenance and operation of the two transmission towers; and the potential future return of the Enrolled Property to baseline conditions.

Consistent with the Service's Safe Harbor Policy (64 FR 32717), the Service would issue a 5-year extension of the Enhancement of Survival Permit to the Applicant. This permit will authorize the Applicant to take the Covered Species incidental to the implementation of the management activities specified in the Agreement, incidental to other lawful uses of the property including normal, routine land management activities, and incidental to return to baseline conditions if desired. Although take of listed plant species is not prohibited under the Act, and therefore cannot be authorized under an enhancement of survival permit, plant species may be included on a permit in recognition of the net conservation benefit provided to them under a safe harbor agreement. An applicant would receive assurances under our "No Surprises" regulations (50 CFR 17.22(c)(5) and 17.32(c)(5)) for all species included in the Enhancement of Survival permit. In addition to meeting other criteria, actions to be performed under an Enhancement of Survival permit must not jeopardize the existence of federally listed fish, wildlife, or plants.

### **Public Review and Comments**

Individuals wishing to view the Agreement, including a map of the proposed permit area, should contact the office and personnel listed in the **ADDRESSES** section above.

Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Service will evaluate this permit application, associated documents, and comments submitted thereon to determine whether the permit application meets the requirements of section 10(a) of the Act and National Environmental Policy Act (NEPA) regulations. If the Service determines that the requirements are met, we will issue a 5-year extension for the enhancement of survival permit under section 10(a)(1)(A) of the Act to the Applicant for take of the Covered Species incidental to otherwise lawful activities in accordance with the terms of the Agreement. The Service will not make our final decision until after the end of the 30-day comment period and will fully consider all comments received during the comment period.

#### **Authority**

The Service provides this notice pursuant to section 10(c) of the Act and pursuant to implementing regulations for NEPA (40 CFR 1506.6).

**Jennifer M. Norris,**

**Field Supervisor,**

**Sacramento Fish and Wildlife Office,**

**Sacramento, California.**

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